

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5097 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PUNAM ALIAS PODIYO KADVAJI PARMAR

Versus

COMMISSIONER OF POLICE

Appearance:

MR ANIL S DAVE for Petitioner

Mr.Kamal Mehta, AGP for the respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 04/11/96

ORAL JUDGEMENT :

By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner has challenged the order of detention dated 21.6.1996 passed by the Commissioner of Police, Ahmedabad City, Ahmedabad. It is alleged that the petitioner is a bootlegger within the meaning of sec.2(b) of the Gujarat Prevention of Anti Social Activities Act, 1985. Six cases alleged to have been registered against the petitioner under the provisions of Bombay Prohibition Act, 1949.

2. This Court by order dated 16th July 1996 made rule returnable on 26.8.1996. The respondents have not filed any affidavit. However, Special Civil Application has been opposed by Shri Kamal Mehta, learned AGP.

3. It is contended by Shri S. Anil Dave, learned counsel for the petitioner that there is no material on record to show that any of the activities of the petitioner as a bootlegger has in any way adversely affected the maintenance of the public order. He relies on the decision of the Apex Court in the case of Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City, AIR 1989 SC 491, wherein it is held by the Apex Court that simply because a person is a bootlegger it cannot be said that his activities has affected adversely or likely to affect adversely the maintenance of public order.

4. I have gone through the material on record with the assistance of the learned counsel. There is substance in the contention of the petitioner. There is no material on record to show that the activities of the petitioner in any way has adversely affected or likely to affect adversely the public order. In view of this, in my view, the order of detention is not sustainable.

5. In view of the aforesaid the order of detention dated 21st June 1996 is quashed and set aside. The petitioner shall be set at liberty, if he is not required in any other case. Rule is made absolute.

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